



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 500

[Docket No. FDA-2013-N-0253]

Animal Feeds Contaminated With Salmonella Microorganisms

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; removal.

SUMMARY: The Food and Drug Administration (FDA or Agency) is revoking an advisory opinion on animal feeds contaminated with Salmonella microorganisms. This action is being taken because that advisory opinion is being superseded by the current FDA enforcement strategy articulated in a final compliance policy guide (CPG) on Salmonella in food for animals.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: In the Federal Register of March 15, 1967, (32 FR 4058), FDA issued an advisory opinion (the 1967 advisory opinion) codified at § 500.35 (21 CFR 500.35), which found that processed fish meal, poultry meal, meat meal, tankage, or other animal byproducts intended for use in animal feed may be contaminated with Salmonella bacteria, an organism pathogenic to man and animals. FDA found in the 1967 advisory opinion that contamination of these products may occur through inadequate heat treatment of the product during its processing or through recontamination of the heat-treated product during a time of improper storage or handling subsequent to processing. FDA also found in the 1967 advisory opinion that Salmonella contamination of such animal feeds having the potential for producing infection and disease in animals must be regarded as an adulterant within the meaning of section 402(a) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 342(a)).

FDA then articulated its intention to regard as adulterated within the meaning of section 402(a) of the FD&C Act shipments of the following when intended for animal feed and encountered in interstate commerce and found upon examination to be contaminated with Salmonella microorganisms: Bone meal, blood meal, crab meal, feather meal, fish meal, fish solubles, meat scraps, poultry meat meal, tankage, or other similar animal byproducts, or blended mixtures of these.

Elsewhere in this issue of the Federal Register, FDA announced a final guidance for FDA staff entitled “Compliance Policy Guide Sec. 690.800 Salmonella in Food for Animals” (the CPG), that revises the criteria FDA staff should consider in deciding whether to recommend seizure or import detention of an animal feed or feed ingredient due to adulteration resulting from contamination with Salmonella. Because the policy in the 1967 advisory opinion is being superseded by the CPG, the 1967 advisory opinion codified at 21 CFR 500.35 is hereby revoked.

FDA is removing § 500.35 without prior opportunity for comment in accordance with 21 CFR 10.85(g), which states “An advisory opinion may be amended or revoked at any time after it has been issued. Notice of amendment or revocation will be given in the same manner as notice of the advisory opinion was originally given or in the FEDERAL REGISTER...” As the advisory opinion at § 500.35 was published and codified on March 15, 1967, without prior opportunity for comment, this removal of § 500.35 is published in the Federal Register in the same manner.

List of Subjects in 21 CFR Part 500

Animal drugs, Animal feeds, Cancer, Labeling, Packaging and containers, Polychlorinated biphenyls (PCBs).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 500 is amended as follows:

PART 500--GENERAL

1. The authority citation for 21 CFR part 500 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 342, 343, 348, 351, 352, 353, 360b, 371, 379e.

§ 500.35 [Removed]

2. Remove § 500.35.

Dated: July 10, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

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